

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP-18318-2022 (O&M)

Date of decision: August 23, 2022

Naveen Kumar

.....Petitioner

versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr. Sandeep Verma, Advocate for the petitioner.

Mr. Pankaj Middha, Additional AG Haryana.

Mr. Kanwal Goyal, Advocate for respondent No.2-Commission.

ARUN MONGA, J. (ORAL)

An aspirant to be in Haryana Civil Services (Executive Branch), having remained unsuccessful in the preliminary examination is before this Court, *inter alia*, seeking quashing of result dated 09.08.2022 (Annexure P-6) and further directions are sought to refer the disputed questions as pleaded in para No.10 of the petition to a committee of experts and conduct re-assessment of the entire preliminary examination as per the expert committee report.

2. Allegedly, the objections submitted by the petitioner have not been dealt with by the Commission. Owing to which, he claims that he has not been given the benefit of his answers and the answers uploaded as per unfinalised answer key are incorrect. He pleads that his answers are correct per information obtained by him based on the extensive research carried on after seeking opinion of subject experts and yet the marks *qua* the same have been denied to him.

3. I have heard the rival contentions.

4. On a Court query, learned counsel for the respondent-Commission, under instructions, states that in prior to declaration of result of the preliminary examination, an unfinalised answer key was uploaded and objections were invited qua the same, which were then duly forwarded to Committee of Experts. Basis of committee opinion, corrections, if any, *qua* the alleged discrepancies were carried out and the final result of preliminary examination was then declared.

5. *Per contra*, learned counsel for the petitioner submits that final result reflects that the correct answers given by the petitioner have not been accepted even after the opinion of the Committee of Experts. The said argument is being noted only to be rejected on the ground that this Court is not to sit in judgment over opinion rendered by the experts committee. Adopting contrary approach vis-à-vis the experts would amount to substituting non-expert's opinion over that of an expert. No doubt, in certain situations, this Court has to assume the role of expert of experts, but present is not a case where such a discretion has to be exercised. Due procedure, as envisaged, after inviting the objections, has already been carried out by the Commission. Being so, it is not expected by the Commission to invite further second round of objections and then upload yet another answer key after that. It would be trite to say that in the matters of selection and talent search examinations, the results declared based on the experts opinion cannot be an open ended process. The debate qua correct answer to a question must end at some stage. In order to achieve the same, once the objections have been dealt with, suffice that there should not be second round of objections, which is what is being sought herein.

6. Confronted, learned counsel for the petitioner urges that whether or not the expert committee has dealt with the objections qua the disputed

questions in the examination, must be disclosed. In the absence thereof, a candidate is unable to take any further recourse to his legal remedies for lack of information. Learned counsel submits that once objections have been dealt with, either way, and thereafter answers to the questions have been evaluated and, the final answer-key ought to be uploaded on the website after declaration of the result.

7. Be that as it may, I am of the view that once an expert committee has rendered its recommendations and the questions of all the candidates across board have been evaluated uniformly on basis thereof, the grievance of entertaining and dealing with the objections stands mitigated. There is no irregularity of any kind in course adopted by HPSC, as is being made to look. That apart neither any *malafide* has been alleged herein nor even otherwise any case of hostile discrimination has been made out. Same answer key, as per the expert committee report, has been used across board for all the candidates.

8. In fact, genesis of the procedure adopted by the Commission is attributable to an earlier round of litigation vide CWP-10309-2012, instituted by aggrieved candidates at the relevant time to seek disclosure of the final answer-key of the preliminary examination. Pursuant thereto, learned Single Judge of this court vide a judgment dated 30.08.2012 directed the Haryana Public Service Commission to publish the answer-key of the preliminary examination within a period of 3 days. It was directed that in case, any of the candidates had any objection/ representation to make *qua* the answer-key, the same would be entertained and referred to committee of experts, and thereafter, final decision would be taken based on the expert committee report. The said direction though was challenged by way of intra-court appeal vide LPA-1338-2012, wherein as

far as direction of uploading the answer-key is concerned, no interference was made and instead Commission took a policy decision to adopt a standard operating procedure, as deposed in the court in the following manner:

- “5. *That H.P.S.C. has taken a decision that it will send those representations already received before and after the publication of answer key as mentioned in Annexure A-1 to the Committee of Experts in the respective subjects alongwith answer key and syllabus relating to the concerned subjects to consider the aforesaid representations and to submit the reports to the Commission about the questions/answers found to be discrepant by the Committee of experts in the respective subjects.*
6. *That on receipt of the reports from the Committee of Experts subject-wise, Commission shall consider the report and shall delete the Questions/Answers found to be discrepant and will prepare and declare the result as per report of the Expert Committee on percentile basis as soon as possible. ”*

9. What thus emerges is that pursuant to the directions earlier issued by this court, candidates are indeed entitled to have final answer-key of the preliminary examination. To turn around now and canvass per contra that, answer-key once finalized, cannot be uploaded until after declaration of the final selection result and/ or the appointment of the candidates is slightly baffling, to say the least. Such a course would naturally lead the candidates high and dry in the absence of not knowing if their answer-sheets have been rightly evaluated as per the final answer key. As to why would Commission adopt such opaqueness in declaring the result of preliminary examination without disclosing the final answer-key, is not clear? To be noted, it is not that HPSC has not disclosed the unfinalized answer-key prior to the expert committee's report for the purpose of inviting objections, but to say that after inviting objections, candidates are not entitled to know the final answer-key frustrates the very purpose of inviting objections.

10. In the premise, Commission is directed to upload the final answer-key of the examination within one week from today. It is however, made clear that no further objections, of any kind, are to be invited on the final answer-key to be uploaded. The earlier round of objections shall be treated as conclusive, since the expert committee was constituted pursuant thereto and, they have already rendered its expert opinion to delete or retain or change the answers to the questions objected to, as the case may have been.

11. In the parting, my attention has been also been drawn to Clause-9 of the advertisement (Annexure P-1) by the learned counsel for the Commission. Perusal thereof reflects that, in any case, the marks obtained in the preliminary examination are completely insignificant for the purpose of final selection. Same is merely a qualifying round to determine the eligibility of a candidate to undertake next round of written examination. Marks obtained in preliminary examination are thus not factored in the aggregate marks to be awarded at the final stage. Selection is made on the basis of marks obtained in the main written examination followed by the marks obtained in the interview. Therefore, it is made clear that commission is not under any further obligation to disclose the candidate wise performance in the preliminary examination, once the answer key is uploaded by it.

12. Writ petition is accordingly, disposed of.

13. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

August 23, 2022

mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No